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Puneet Sharma

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EXAMINER

ZELASKIEWICZ, CHRYSTINA E

ART UNIT

PAPER NUMBER

3621

NOTIFICATION DATE

DELIVERY MODE

08/08/2008

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b> 10/679,111	<b>Applicant(s)</b> SHARMA ET AL.	
	<b>Examiner</b> CHRYSTINA ZELASKIEWICZ	<b>Art Unit</b> 3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 May 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 May 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### Status of Claims

1. This action is in reply to the Amendment filed on May 14, 2008
2. Claims 10, 28 have been amended.
3. Claims 1-36 are currently pending and have been examined.

### Drawings

4. In light of Applicant's amendments, the former objections are withdrawn.

### Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claims 1-36 are rejected under 35 U.S.C. §103(a) as being unpatentable over Fransdonk (US 2003/0167392 A1) in view of Yager et al. (US 5,983,236).**

### Claims 1, 10, 19, 28

7. Fransdonk discloses the following limitations:
  - a. upon completing the transfer of the video component, receiving a command from the device to transfer an audio component of the file (paragraph 0055: a **request** for content (audio component) from a content destination 22 is re-routed to content distributor).
8. Fransdonk does not disclose the following limitations:
  - b. transferring... device;
  - c. retrieving... storage;

- d. transferring... component.
9. Yager discloses the following limitations:
- e. transferring a video component of the file to a device (column 1, lines 20-27: Synchronized combinations of audio, **video**, still images, and text are generically referred to as video clips. Through digitization, the electromagnetic signals which are used to represent each of these video clip components may be reduced to binary data files. These files may be stored in combination as video clip data files and may be **transferred to** and displayed by display units (device) which are capable of processing the video clip data);
  - f. retrieving the audio component of the file from a storage (figures 1-2: retrieve audio component from file server); and
  - g. transferring the audio component (column 1, lines 20-27: Synchronized combinations of **audio**, video, still images, and text are generically referred to as video clips. Through digitization, the electromagnetic signals which are used to represent each of these video clip components may be reduced to binary data files. These files may be stored in combination as video clip data files and may be **transferred to** and displayed by display units which are capable of processing the video clip data).
10. It would have been obvious to one skilled in the art at the time of the invention to combine Fransdonk with Yager because 1) Internet congestion, due to millions of users streaming audio and video, makes delivering high quality media a challenge (Fransdonk paragraph 0013); and 2) a client may encounter several network problems when trying to download information such as reduced bandwidth during peak hours (causes increased transfer times) or delayed transfer times (network overloaded with requests) (Toga 5,987,504 column 1, lines 46-62). Transferring the video and audio components of a file separately helps to reduce Internet congestion, while maintaining high quality media, and to avoid increased or delayed transfer times.
11. Alternatively, it would have been obvious to one skilled in the art at the time of the invention to modify Fransdonk to show transferring a video component of the file to a device, retrieving the audio component of the file from a storage, and transferring the audio component (i.e. separate transfers of the

audio and video components) because Fransdonk already teaches distributing content from a source to the consumer, where the content may be video or audio (paragraph 0013, 0051-0056, 0063). A suggestion exists to transfer audio and video components separately because 1) Internet congestion, due to millions of users streaming audio and video, makes delivering high quality media a challenge (Fransdonk paragraph 0013); and 2) a client may encounter several network problems when trying to download information such as reduced bandwidth during peak hours (causes increased transfer times) or delayed transfer times (network overloaded with requests) (Toga 5,987,504 column 1, lines 46-62). Transferring the video and audio components of a file separately helps to reduce Internet congestion, while maintaining high quality media, and to avoid increased or delayed transfer times.

12. Alternatively, it would have been obvious to one skilled in the art at the time of the invention to modify Yager to show upon completing the transfer of the video component, receiving a command from the device to transfer an audio component of the file because Yager already teaches transferring each component data file individually, and maintaining the data as separate groups (i.e. video and audio components) (column 1, lines 20-67, column 2, lines 42-65, column 3, lines 1-2). A suggestion exists to transfer the video component and then receive a command to transfer the audio component because 1) Internet congestion, due to millions of users streaming audio and video, makes delivering high quality media a challenge (Fransdonk paragraph 0013); and 2) a client may encounter several network problems when trying to download information such as reduced bandwidth during peak hours (causes increased transfer times) or delayed transfer times (network overloaded with requests) (Toga 5,987,504 column 1, lines 46-62). Transferring the video and audio components of a file separately helps to reduce Internet congestion, while maintaining high quality media, and to avoid increased or delayed transfer times.

#### **Claims 2, 11, 20, 29**

13. Fransdonk, in view of Yager, discloses all the limitations of claims 1, 10, 19, 28. Furthermore, Fransdonk discloses the following limitation:

- h. receiving a payment for the audio component (paragraph 0059: If a content destination is authorized and/or **payment is cleared** (received), requested content (audio component) may be personally re-encrypted and delivered to the content destination).

**Claims 3, 12, 21, 30**

14. Fransdonk, in view of Yager, discloses all the limitations of claims 2, 11, 20, 29. Furthermore, Fransdonk discloses the following limitation:

- i. the audio component is encrypted with a key, K, and further comprising transferring the key, K, upon receiving the payment (paragraphs 0056, 0059: At the content provider, clear content (audio component) is **encrypted** utilizing a symmetric product **key**... The conditional access agent personalizes and manages **key delivery to a content destination**... If a content destination is authorized and/or **payment is cleared**, requested content may be personally re-encrypted and delivered (transferred) to the content destination).

**Claims 4, 13, 22, 31**

15. Fransdonk, in view of Yager, discloses all the limitations of claims 1, 10, 19, 28. Furthermore, Fransdonk discloses the following limitation:

- j. the audio component is encrypted with a key, K, and further comprising transferring the key, K (paragraphs 0056, 0059: At the content provider, clear content (audio component) is **encrypted** utilizing a symmetric product **key**... The conditional access agent personalizes and manages **key delivery to a content destination**).

**Claims 5, 14, 23, 32**

16. Fransdonk, in view of Yager, discloses all the limitations of claims 1, 10, 19, 28. Furthermore, Yager discloses the following limitation:

- k. merging the audio and video components (column 1, lines 20-25: Synchronized combinations of **audio**, **video**, still images, and text are generically referred to as video clips.

Through digitization, the electromagnetic signals which are used to represent **each of these video clip components** may be reduced to binary data files. These files **may be stored in combination** (merged) as video clip data files).

17. It would have been obvious to one skilled in the art at the time of the invention to combine Fransdonk with Yager because 1) Internet congestion, due to millions of users streaming audio and video, makes delivering high quality media a challenge (Fransdonk paragraph 0013); and 2) a client may encounter several network problems when trying to download information such as reduced bandwidth during peak hours (causes increased transfer times) or delayed transfer times (network overloaded with requests) (Toga 5,987,504 column 1, lines 46-62). Transferring the video and audio components of a file separately helps to reduce Internet congestion, while maintaining high quality media, and to avoid increased or delayed transfer times. Subsequently, merging the video and audio components of said file allows the user to enjoy the complete file.

#### **Claims 6, 15, 24, 33**

18. Fransdonk, in view of Yager, discloses all the limitations of claims 1, 10, 19, 28. Furthermore, Fransdonk discloses the following limitation:

I. the video component is encrypted with a first key, K1, and the audio component is encrypted with a second key, K2, and further comprising transferring the first and second keys, K1 and K2 (paragraphs 0254, 0258: FIG. 9 is a flow chart illustrating a method 300, according to an exemplary embodiment of the present invention, of **encrypting content** (video and audio) utilizing a **random, time-varying sequence of session keys** (K1 for video and K2 for audio)... At block 208, the content provider **distributes** (transfers) the encrypted sequence of **session keys**).

19. Alternatively, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Yager to show the video component is encrypted with a first key, K1, and the audio component is encrypted with a second key, K2, and further comprising transferring the first and second keys, K1 and K2 because Yager already teaches transferring each component data file individually, and

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maintaining the data as separate groups (i.e. video and audio components) (column 1, lines 20-67, column 2, lines 42-65, column 3, lines 1-2). A suggestion exists to encrypt each data component (audio and video) and transfer the keys because encryption helps to ensure the secure transfer of data files (Fransdonk paragraph 0016).

**Claims 7, 16, 25, 34**

20. Fransdonk, in view of Yager, discloses all the limitations of claims 6, 15, 24, 33. Furthermore, Fransdonk discloses the following limitation:

- m. the first and second keys, K1 and K2, are the same (paragraph 0056: At the content provider, clear content (video and audio components) is **encrypted** utilizing a symmetric product **key** (K1 = K2)).

**Claims 8, 17, 26, 35**

21. Fransdonk, in view of Yager, discloses all the limitations of claims 6, 15, 24, 33. Furthermore, Fransdonk discloses the following limitation:

- n. the video and audio components are decrypted with the first and second keys, K1 and K2, respectively (paragraph 0278: At block 254, the conditional access client 48 then **decrypts the encrypted content** (video and audio components) utilizing the decrypted **session keys** (K1 and K2)).

**Claims 9, 18, 27, 36**

22. Fransdonk, in view of Yager, discloses all the limitations of claims 6, 15, 24, 33. Furthermore, Fransdonk discloses the following limitation:

- o. the first and second keys, K1 and K2, are transferred upon completion of a payment (paragraph 0059: The conditional access agent personalizes and manages **key delivery** (K1 and K2) **to a content destination**... If a content destination is authorized and/or **payment is cleared**,



requested content may be personally re-encrypted and delivered (transferred) to the content destination).

23. **Examiner's Note:** The Examiner has pointed out particular references contained in the prior art of record within the body of this action for the convenience of the Applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply. Applicant, in preparing the response, should consider fully the entire reference as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

24. Although Applicants use "means for" in the claim(s) (e.g. see claim 28 which recites "means for receiving"), it is the Examiner's position that the "means for" phrase(s) do not invoke 35 U.S.C. 112 6<sup>th</sup> paragraph. If Applicants concur, the Examiner respectfully requests Applicants to either amend the claim(s) to remove all instances of "means for" from the claim(s), or to explicitly state on the record why 35 U.S.C. 112 6<sup>th</sup> paragraph should not be invoked. Alternatively, if Applicants desire to invoke 35 U.S.C. 112 6<sup>th</sup> paragraph, the Examiner respectfully requests Applicants to expressly state their desire on the record. Upon receiving such express invocation of U.S.C. 112 6<sup>th</sup> paragraph, the "means for" phrase(s) will be interpreted as set forth in the *Supplemental Examination Guidelines for Determining the Applicability of 35 USC 112 6<sup>th</sup>*. Failure by Applicants in their next response to also address the 35 U.S.C. 112 6<sup>th</sup> paragraph issues in accordance with 37 C.F.R. §1.111 (b) or to be non-responsive to this issue entirely will be considered a desire by Applicants NOT to invoke 35 U.S.C. 112 6<sup>th</sup> paragraph. Unless expressly noted otherwise by the Examiner, the preceding discussion on 35 U.S.C. 112 6<sup>th</sup> paragraph applies to all examined claims currently pending.

#### **Response to Arguments**

25. Applicant argues that "there is no discussion in Fransdonk of the separate transfers of the audio and video components of such media content or file" (Amendment p 14-15). Applicant also argues that

"there is no further discussion of Yager on the transfer of an audio component *subsequent* to the transfer of the video component and also conditioned on a command to transfer such an audio component" (Amendment p 15). Examiner respectfully disagrees. Please note the alternative rejections above. Additionally, Yager teaches the component data may be maintained as separate groups, and transferring each component data file individually (column 2, lines 42-65, column 3, lines 1-2).

26. Applicant argues that "there is no clear discussion in Fransdonk that the sessions are used to separately encrypt and transfer audio and video components of such media content" (Amendment p 16). Examiner respectfully disagrees. Please note the alternative rejection above.

27. Examiner notes that claim 30 does not state its status (e.g. original, currently amended, cancelled) (Amendment p 11). Examiner will assume the status on claim 30 is "original."

### Conclusion

28. **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

29. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

30. Any inquiry of a general nature or relating to the status of this application or concerning this communication or earlier communications from the Examiner should be directed to Chrystina Zelaskiewicz whose telephone number is 571.270.3940. The Examiner can normally be reached on Monday-Friday, 9:30am-5:00pm. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, Andrew Fischer can be reached at 571.272.6779.

31. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair> <<http://pair-direct.uspto.gov>>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866.217.9197 (toll-free).

/Chrystina Zelaskiewicz/  
Examiner, Art Unit 3621  
August 4, 2008

/ANDREW J. FISCHER/  
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